

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Relay Services	)	CG Docket No. 03-123
And Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	
Disabilities	)	
	)	
Access to Emergency Services	)	

To: Secretary, FCC  
For: Chief, Consumer & Governmental Affairs Bureau

**COMMENTS OF HAMILTON RELAY, INC.**

Hamilton Relay, Inc. ("Hamilton"), by its counsel, hereby submits these comments in response to the Commission's November 30, 2005 *Notice of Proposed Rulemaking* ("NPRM") concerning access to emergency services for Internet Relay and Video Relay Services ("VRS").<sup>1</sup>

As an Internet Relay and VRS provider, Hamilton welcomes the opportunity to comment on this extremely important issue. Currently, unlike traditional relay users, VRS and Internet Relay users do not have access to emergency calling. The Commission has acknowledged that it is not technically possible for VRS and Internet Relay providers to determine the geographical location of their users. Consequently, VRS and Internet Relay providers are unable to identify the appropriate public safety answering point ("PSAP") to which emergency calls should be directed. Because of this inability, the Commission has granted temporary waivers of the emergency call handling requirement for VRS and Internet Relay providers until January 1,

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<sup>1</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Notice of Proposed Rulemaking, FCC 05-196 (rel. Nov. 30, 2005).

2007<sup>2</sup> and January 1, 2008,<sup>3</sup> respectively, or upon the release of an order addressing this issue, whichever comes first.

A Uniform Numbering System Is a Prerequisite to a Viable Emergency Call Handling System

Hamilton believes that a uniform numbering system for IP-based relay services is necessary in order to have a viable emergency call handling system for Internet Relay and VRS. In the absence of a uniform way to identify users, it is impossible for VRS/Internet Relay providers to tie a particular user to a particular location. Accordingly, any Commission decision on IP-based emergency call handling necessarily involves the prior implementation of a uniform numbering system.

Pending Legislation May Affect the Outcome of this Proceeding

In addition, Hamilton notes that the emergency call handling issue raised in the *NPRM* is not limited to relay services, but applies to Internet-based service offerings in general. This proceeding is therefore necessarily affected by the broader issues of IP-based emergency call handling, and how Congress and the Commission deal with those issues. Pending legislation in Congress may establish guidelines for such IP-based emergency call handling.<sup>4</sup> The legislation, entitled the “IP-Enabled Voice Communications and Public Safety Act of 2005,” in part

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<sup>2</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, DA 05-3139 (CGB rel. Dec. 5, 2005).

<sup>3</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, 18 FCC Rcd 4761, ¶¶ 7-12 (rel. Mar. 14, 2003). VRS and Internet Relay providers are required to file an annual progress report related to this and other waivers granted by the Commission.

<sup>4</sup> See IP-Enabled Voice Communications and Public Safety Act of 2005, S. 1063, 109<sup>th</sup> Cong. (2005) (placed on Senate Legislative Calendar Dec. 20, 2005); IP-Enabled Voice Communications and Public Safety Act of 2005, H.R. 2418, 109<sup>th</sup> Cong. (companion bill to S. 1063); see also S. Rep. No. 109-211 (report of the Senate Committee on Commerce, Science, and Transportation on S. 1063).

contemplates the development of a national plan for migrating the 911 and E-911 network to an IP-enabled emergency network. Hamilton supports the goals of the legislation. Because this issue is of such fundamental importance and encompasses a broad array of Internet-based services, Hamilton believes that it may be appropriate to wait for congressional guidance on this issue prior to mandating any particular emergency call handling requirements for IP-based relay providers. Until the legislative record is clear, Hamilton believes that it would be premature to adopt emergency call handling rules solely related to VRS and Internet Relay.

In the meantime, Hamilton submits these comments in response to the Commission's proposed methods of a user registration system and possible other methods.

#### Registration May Not Be Appropriate in the Relay Context

The Commission has proposed that VRS and Internet Relay providers essentially be held to the same standards as VoIP providers, namely that they must obtain the primary location from which calls will be placed prior to initiating a customer's service. In the past, Hamilton has opposed a registration system for VRS and Internet Relay services when the proposal was raised in the "jurisdictional separations" context.<sup>5</sup> In this instance, Hamilton does not support a "customer profile" or registration system for emergency call handling purposes, to the extent that each provider would maintain a separate profile or registration system. Hamilton would only support a 911 registration system if it is structured as a mandatory, uniform registration system that contains user location information and is available to all relay providers.<sup>6</sup>

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<sup>5</sup> See Comments of Hamilton Relay, Inc., CC Docket Nos. 90-571, 98-67, CG Docket No. 03-123, at 6-7 (filed Oct. 18, 2004) (noting that a registration system may, among other issues, raise privacy concerns). For similar reasons, Hamilton does not believe that emergency calls can be a rational mechanism for allocating TRS costs between interstate and intrastate jurisdictions, because the number of 911 calls is so low.

<sup>6</sup> *NPRM* ¶ 27.

There are fundamental differences between VoIP services and relay that make the automatic application of the VoIP 911 solution inadvisable. Relay users are free to select their Internet Relay or VRS provider of choice. Furthermore, unlike VoIP providers, relay providers are prohibited by statute from refusing calls by relay users.<sup>7</sup> Commission rules also prohibit relay providers from refusing single or sequential calls.<sup>8</sup> In contrast, VoIP providers may not sign up any new customers in areas where they cannot provide E-911 service.<sup>9</sup> The problem is that relay providers are prohibited from doing so by statute and Commission rule. Therefore, applying the rationale of the *Vonage* decision to relay providers would be inconsistent with, and specifically prohibited by, Title IV of the ADA and the Commission's rules promulgating the ADA. Furthermore, in contrast to VoIP providers, relay providers do not have "customers" or "subscribers" and thus do not possess Customer Proprietary Network Information ("CPNI").<sup>10</sup> Because of these differences in the nature of service provision by VoIP and relay providers, Hamilton believes that a separate solution for relay is warranted.

Finally, to the extent that any mandatory minimum emergency call handling standards are adopted for VRS and Internet relay, Hamilton submits that the providers should be eligible for recovery of the reasonable costs associated with implementing the new standards.

#### The Commission Should Ensure Parity of Protection

Finally, to the extent that the Commission adopts emergency call handling requirements in this proceeding, Hamilton urges the Commission to ensure that IP-based relay providers, their

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<sup>7</sup> 47 U.S.C. § 225(d)(1)(E).

<sup>8</sup> 47 C.F.R. § 64.603(a)(3)(i).

<sup>9</sup> *Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters*, Public Notice, DA 05-2945 (rel. Nov. 7, 2005).

<sup>10</sup> Relay users are free to create customer profiles with any number of providers, but in no way are required to do so, at least with Hamilton's service.

officers, directors, employees, vendors and agents have the same scope and extent of immunity and other protection from liability under federal and state law with respect to: 1) the release of subscriber information related to emergency calls or emergency services; 2) the use or provision of 911 and E-911 services; and 3) other matters related to 911 and E-911 services, as is provided to wireless carriers.<sup>11</sup>

### Conclusion

Pending legislation in both the House and the Senate covers a number of the issues addressed in the *NPRM*. Hamilton believes that it would be inappropriate for the Commission to reach hurried decisions in this proceeding, and submits that it is advisable in this instance to await congressional guidance prior to implementing many of the proposals in the *NPRM*. It would also be premature to implement an emergency call handling solution without adopting uniform numbering standards for IP-based relay services first.

To the extent that a registration system is adopted, however, Hamilton urges the Commission to ensure the system is mandatory, uniform, contains user location information, and is available to all relay providers. In addition, legitimate provider costs involved in


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<sup>11</sup> Cf. S. 1063, § 2(f).

implementing any emergency call handling registration system should be reimbursable from the interstate TRS Fund.

Respectfully submitted,

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